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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/715,062
Filing Date: November 17, 2003
Appellant(s): DIETZ, TIMOTHY ALAN

Wayne P. Bailey
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/14/2007 appealing from the Office action mailed 09/05/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is deficient because the Appellant is adding to the summary of claimed subject matter arguments of why the cited prior art, according to the Appellant, differs from the Appellant's claimed invention, where said arguments should be addressed in the Argument's section of the Brief and not in the section of summary of claimed subject matter.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,522,875 DOWLING ET AL 02-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-7, 9-13, 15-19 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Dowling (US 6,522,875).

Claims 1, 9, 15 and 21, Dowling teaches:

A method for generating and serving a web page by a server data processing system, comprising the steps performed by the server data processing system of:

storing a set of location-specific page elements (see col 4, lines 20-30);
receiving a request for the web page from a first client browser, the request including a geographic location data string identifying a first location of the first client browser (see col 4, lines 45-65);

responsive to the request being received dynamically building the web page using the geographic location data string to select a given one of the set of location-specific page elements having content associated with a physical location in proximity to the first location of the first client browser (see col 4, lines 45-65);

serving the web page in response to the request (see col 4, lines 45-65);

receiving a subsequent request for the web page from either the first client browser or a second client browser different from the first client browser (see col 10, lines 10-40);

determining if the subsequent request originates from a second location that is proximate to the first location of the first client browser and providing a cached version of the web page with the selected location-specific page element if the second location is proximate to the first location (see col 10, lines 10-40).

Claims 2, 11 and 17, Dowling teaches:

The method as described in Claim 1 wherein the geographic location data string is provided by a Global Positioning System (GPS) device coupled to a client computer in which the first client browser is resident (see col 4, lines 30-45).

Claims 3, 12 and 18, Dowling teaches:

The method as described in Claim 1 wherein the location-specific page elements are a set of web page advertisements (see col 4, lines 45-65).

Claims 4, 13 and 19, Dowling teaches:

The method as described in Claim 3 wherein the given one of the set of location-specific page elements is a web page advertisement for a business located in proximity to the location of the first client browser (see col 4, lines 45-65).

Claim 5, Dowling teaches:

A method for serving a webpage, comprising the steps of:
storing a set of location-specific page elements (see col 4, lines 20-30);
receiving a request for the web page from a first client browser, the request including a geographic location data string identifying a first location of the first client browser (see col 4, lines 45-65);
dynamically building the web page using the geographic location data string to select a given one of the set of location-specific page elements having content associated with a physical location in proximity to the first location of the first client browser (see col 4, lines 45-65);
serving the web page in response to the request (see col 4, lines 45-65);
receiving a subsequent request for the web page from either the first client browser or a second client browser different from the first client browser (see col 10, lines 10-40);
determining if the subsequent request originates from a second location that is proximate to the first location of the first client browser and providing a cached version of the web page with the selected location-specific page element if the second location is proximate to the first location (see col 10, lines 10-40)

wherein the first client browser provides the geographic location data string in a cookie (see col 4, lines 45-65 “packet filter”).

Claim 6, Dowling teaches:

A method for serving a web page, comprising the steps of:
storing a set of location-specific page elements (see col 4, lines 20-30);
receiving a request for the web page from a first client browser, the request including a geographic location data string identifying a first location of the first client browser (see col 4, lines 45-65);
dynamically building the web page using the geographic location data string to select a given one of the set of location-specific page elements having content associated with a physical location in proximity to the first location of the first client browser (see col 4, lines 45-65);
serving the web page in response to the request (see col 4, lines 45-65);
receiving a subsequent request for the web page from either the first client browser or a second client browser different from the first client browser (see col 10, lines 10-40);
determining if the subsequent request originates from a second location that is proximate to the first location of the first client browser and providing a cached version of the web page with the selected location-specific page element if the second location is proximate to the first location (see col 10, lines 10-40).
wherein the first client browser provides the geographic location data string in an HTML form (see col 13, lines 25-40).

Claim 7, Dowling teaches:

A method for serving a web page, comprising the steps of:

storing a set of location-specific page elements (see col 4, lines 20-30);

receiving a request for the web page from a first client browser, the request including a geographic location data string identifying a first location of the first client browser (see col 4, lines 45-65);

dynamically building the web page using the geographic location data string to select a given one of the set of location-specific page elements having content associated with a physical location in proximity to the first location of the first client browser (see col 4, lines 45-65);

serving the web page in response to the request (see col 4, lines 45-65);

receiving a subsequent request for the web page from either the first client browser or a second client browser different from the first client browser (see col 10, lines 10-40);

determining if the subsequent request originates from a second location that is proximate to the first location of the first client browser and providing a cached version of the web page with the selected location-specific page element if the second location is proximate to the first location (see col 10, lines 10-40).

wherein the set of location-specific page elements are stored at a third party server (see figure 1, item 120).

Claims 10 and 16, Dowling teaches:

The computer program product as described in Claim 9 further including means for serving the web page in response to the request (see col 4, lines 45-65).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 14 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dowling (US 6,522,875).

Claims 8, 14 and 20, Dowling fails to teach:

The method as described in Claim 1 wherein the web page is built using a Java server page mechanism. However, Official Notice is taken that it is old and well known in the computer art to build web pages using a Java server page mechanism. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Dowling would use Java server page mechanism in order to built web pages as it is old and well known to do so.

(10) Response to Argument

Appellant's claimed limitation "receiving a request for the web page from a first client browser, the request including a geographic location data string identifying a first location of the first client browser; responsive to the request being received dynamically

building the web page using the geographic location data string to select a given one of the set of location-specific page elements having content associated with a physical location in proximity to the first location of the first client browser; serving the web page in response to the request" is interpreted in light of Appellant's specification as simply targeting advertisements to a client's browser based upon said client's browser geographic location when said client's browser request a web page from a network server, as Appellant's specification teaches "Dynamic web page content is generated and served as a function of client device location information. In one embodiment, a location determination mechanism, e.g., a GPS receiver, associated with the requesting client machine passes the machine's location to a web server. The web server then builds dynamic page content based on the device location that is passed with the request. In an illustrative, the page includes an advertisement that identifies a given business establishment located in proximity to the user's then-current location. In response to a request for the web page from a client browser, a control routine parses the request to identify a geographic location data string identifying a location of the client browser that has made the request. The geographic location data string may be generated at the client browser in a number of different ways, e.g., by a global position system (GPS) receiver coupled to the client computer, by the user manually entering his or her location coordinates, or the like. At the server, the web page is built dynamically using the geographic location data string to select a given one of the set location-specific page elements and, preferably, an element having content associated with or identifying a physical location in proximity to the location of the requesting client

machine. The web page is then served in response to the request. In this way, targeted advertising or other page content is included in the web page as a function of the client browser location" (See Appellant's specification page 5, lines 1-23). Also, Appellant's specification teaches that "location-specific dynamic page generator enables a web server to server web pages that include given page content elements targeted to the user based on the location of the client machine. Thus, a given web page may be served together with an advertisement that identifies a specific business in proximity to the location of the client machine that issued the request for the web page. Thus, the location-specific page elements may comprise a set of advertisements, each of which has content associated with a particular business located in a given area. To give an example, the location-specific page elements may be a set of banner advertisements for a national restaurant chain, with each particular advertisement identifying the location of a particular franchise in a given city. Thus, when a user (in a given city) makes a request for a web page, an advertisement targeted to the user can be pushed to the client machine with the rest of the requested page elements" (see Appellant's specification page 7-22).

The Appellant argues in page 13 of the Brief that while it may be true that the teachings of cited reference are similarly directed to providing "localized" content, how such localized content is provided is substantially different, according to the Appellant, from the how the content is provided per the features of the present claims. The Appellant further argues that in Appellant's claims, content for a webpage is dynamically generated based on the location information, whereas, according to the Appellant, in the

Dowling's reference, pre-existing web pages are selected based on location information. The Appellant further argues that Dowling does not teach any type of dynamic web page generation based on location information that is received in a request for a web page but instead according to the Appellant, teaches the filtering of pre-existing content based upon location. The Appellant further argues that the Dowling's reference is a push based system but Appellant's claimed invention is a pull based system.

The Examiner answers that Dowling teaches a system where a mobile user requests a web page (*i.e.* "restaurant web page") from a network server and based upon the location of said mobile user obtained from a local broadcast domain antenna (see Dowling figure 1, item 145) or a satellite antenna (see Dowling figure 1, item 140 "GPS receiver"), Dowling transmits to said mobile user's web page content related to the location of said mobile users (*i.e.* "web pages containing the menus and other information related to the restaurants associated with the received broadcast-data packets"; see Dowling col 10, line 10 – col 11, line 65). Furthermore, Dowling teaches a system that allows a user to select an area of interest and information related to this area of interest is allowed to be displayed on the user input-output device. The mobile user transmits a request packet indicating its interest to the local broadcasting domain entity 150 (see Dowling figure 1). The local broadcast domain entity 150 (see Dowling figure 1) then supplies the desired information relating to locally available resources. In other embodiments the application request packet is forwarded to the network server 125 (see Dowling figure 1) via the second network connection 113. Downstream application data is then passed to the mobile unit 105 (see Dowling figure 1) from the

network server 125 (See Dowling figure 1) via the second network connection 113, where the above embodiments focused on a web browser application" (see Dowling col 12, lines 32-60). Therefore, contrary to Appellant's argument, Dowling teaches "dynamically building web pages using the geographic location data string to select a given one of the set of location-specific page elements having content associated with a physical location in proximity to the first location of the first client browser" as Dowling teaches targeting advertisement's content to mobile users based upon said users' geographic location, where said targeting is based upon said user's browser request of a web page from a network server and where said advertisement's content is pull from said network server based upon said mobile user's geographic location.

The Appellant further argues in pages 14-16 of the Brief that in Dowling there is no server based dynamic customer generation of a particular web page based on user location, but instead a local filtering of broadcast data packets, with the data packets that pass through such filter being used to request traditional, preexisting web pages. The Appellant further argues that Dowling does not teach Appellant's claimed invention because the cited reference does not teach the dynamic building of web page using the geographic location data string. The Examiner answers that Appellant's specification teaches that "the location data string may be generated at the client browser in a number of different ways, e.g., by a Global Positioning System (GPS) receiver coupled to the client computer, by a user manually entering his or her location coordinates. At the server, the web page is built dynamically using the geographic location data string to select a given one of the set location-specific page elements, and preferably, an

element having content associated with or identifying a physical location in proximity to the location of the requesting client machine" (see Appellant's specification page 5, lines 10-22). Dowling teaches a geographically controlled web browser where a user may provide navigation commands and navigating said web browser using conventional methods such as keywords entries or mouse clicks (see col 14, lines 32-60) or that geographic location data string may be generated from GPS receiver where said location data string is send via a network connection to a central server where said central server transmits web pages related to the geographic location of said mobile user (see Dowling col 4, lines 45-65; col 10, lines 10-40). Furthermore, Dowling teaches sending a "geographical packet" which is a type of request packet sent by a geographical web browser to request application data such as web pages to be downloaded based on geographical related event (See Dowling col 15, lines 30-35). Therefore, contrary to Appellant's argument, Dowling teaches the limitation "geographic location data string" (*i.e.* "geographical packet") which is sent by the mobile user's web browser when said mobile user requests a web page in order that said mobile user is targeted with advertisement's content based upon said mobile user's geographic location.

The Appellant further argues in pages 17-18 of the Brief that Dowling does not teach "receiving a request for the web page from a first client browser, the request including a geographic location data string identifying a first location of the first client browser" because according to the Appellant, Dowling teaches a GPS mode of operation that according to the Appellant, is different from Appellant's claim 1. The

Appellant argues that Dowling's GPS mode, GPS location information is periodically transmitted to a server and according to the Appellant, this periodic transmission of GPS information does not teach "receiving a request for the web page from a first client browser, the request including geographic location data string identifying a first location of the first client browser". The Appellant further argues that Dowling GPS information is not described as being part of any request for a web page and there is no mention, according to the Appellant, a user input or request itself includes any type of locator information. The Appellant further argues that in Dowling the GPS location information is not received from a client browser, but instead from a client GPS device and this according to the Appellant is different from Appellant's claimed invention, where the browser itself facilitate the providing of the location information, which enable according to the Appellant, a plurality of different ways for the actual transport of location information with the request. The Examiner answers that the Appellant is arguing about limitation not stated in the claims when he argues that in Dowling the GPS location information is not received from a client browser but instead from a client GPS device or that the GPS location information is periodically transmitted or where the browser itself facilitates the providing of the location information enabling a plurality of different ways for the actual transport of location information with the request. Appellant's claim 1 simply recites "receiving a request for the web page from a first client browser, the request including a geographic location data string identifying a first location of the first client browser, responsive to the request being received, dynamically building the web page using the geographic location data string to select a given one of the set of

location-specific page elements having content associated with a physical location in proximity to the first location of the first client browser, serving the web page in response to the request". Appellant's specification page 5, lines 1-22 defines said limitation where it recites "a location determination mechanism, e.g., a GPS receiver, associated with the requesting client machine passes the machine's location to a web server. The web server then builds dynamic page content based on the device location that is passed with the request. In an illustrative embodiment, the page includes an advertisement that identifies a given business establishment located in proximity to the user's then-current location. In response to a request for the web page from a client browser, a control routine parses the request to identify a geographic location data string identifying a location of the client browser that has made the request. The geographic location data string may be generated at the client browser in a number of different ways, e.g., by a Global Positioning System (GPS) receiver coupled to the client computer". Dowling teaches a system where a mobile user requests a web page (*i.e.* "restaurant web page") from a network server and based upon the location of said mobile user obtained from a local broadcast domain antenna (see Dowling figure 1, item 145) or a satellite antenna (see Dowling figure 1, item 140 "GPS receiver"), Dowling transmits to said mobile user's web page content related to the location of said mobile users (*i.e.* "web pages containing the menus and other information related to the restaurants associated with the received broadcast-data packets"; see Dowling col 10, line 10 – col 11, line 65). Furthermore, Dowling teaches a system that allows a user to select an area of interest and information related to this area of interest is allowed to be

displayed on the user input-output device. The mobile user transmits a request packet indicating its interest to the local broadcasting domain entity 150 (see Dowling figure 1). The local broadcast domain entity 150 (see Dowling figure 1) then supplies the desired information relating to locally available resources. In other embodiments the application request packet is forwarded to the network server 125 (see Dowling figure 1) via the second network connection 113. Downstream application data is then passed to the mobile unit 105 from the network server 125 via the second network connection 113, where the above embodiments focused on a web browser application" (see Dowling col 12, lines 32-60). Furthermore, Dowling teaches "a geographical packet is a type of request packet sent by a geographical web browser to request application data such as web pages to be downloaded based on geographical related events" (See Dowling col 15, lines 30-37). Therefore, contrary to Appellant's argument, Dowling teaches Appellant's claimed invention.

The Appellant argues in page 19 with respect to claim 5 that Dowling does not teach "wherein the first client browser provides the geographic location data string in a cookie" because according to the Appellant, Dowling packet filter is not used to provide location information that is received from the client browser and that even assuming arguendo, according to the Appellant, that the Dowling packet filter is used to provide location information that is received from a client browser, this Dowling packet filter, according to the Appellant, is not equivalent to the claimed cookie. The Examiner answers that Dowling teaches a "geographical packet" that is a type of request packet sent by geographical browser to request application data such as web pages from a

server (see col 15, lines 30-40). Therefore, contrary to Applicant's argument, Dowling teaches providing location information that is received from a client browser where said location information could be construed to be a "cookie" containing location data.

The Appellant argues in page 20 of the Brief that Dowling does not teach "wherein the first client browser provides the geographic location data string in an HTML form". The Examiner answers that Dowling teaches in col 12, lines 32-60 where a user transmits a HTTP request packet indicating said user area of interest (See Dowling col 12, lines 32-60). Dowling also teaches using a GPS receiver to obtain a mobile's user location and where a geographical packet is a request sent by a geographical web browser to request application data such as web pages to be downloaded based on geographic related events (see Dowling col 15, lines 30-40). Therefore, contrary to Appellant's argument, Dowling teaches providing a geographic location data string in an HTML form (*i.e.* "HTTP request geographic packet").

The Appellant argues in page 21 of the Brief that Dowling does not teach "wherein the set of location-specific page elements are stored at a third party server". The Appellant further argues that Dowling's figure 1 item 120 is used to maintain a network connection between a mobile unit and air interface and this network connection or virtual session server is not described as being used to store any type of information used to dynamically generate content that is served to a user. The Examiner answers that Dowling teaches a network server 125 ("third party server" see Dowling figure 1) that is used by mobile unit 105 (see Dowling figure 1) to download web pages stored in said network server, where said web pages are downloaded based on the geographic

location of the mobile unit 105. Therefore, contrary to Appellant's argument, Dowling teaches a "third party server" which stores advertisements' content that would be targeted to mobile users based upon said users' geographic location.

The Appellant argues in page 22 of the Brief that Dowling does not teach Appellant's claim 15. The Examiner answers that Dowling teaches a network server 125 (see Dowling figure 1) that receives a request for a web page (*i.e.* "web page for restaurants") and where said request includes "geographical packet" (see Dowling col 15, lines 30-40) in order that the pages downloaded to a mobile users with respect to said requested web page are downloaded based upon the physical location of the mobile unit 105 (see Dowling figure 1). Therefore, contrary to Appellant's argument, Dowling teaches Appellant's claims 15.

The Appellant argues in page 22 of the Brief with respect to claim 21 that Dowling does not teach a "server data processing system". The Examiner answers that Dowling teaches in figure 1, items 125, teach said data processing system a network server 125 downloads geographic web pages to a mobile unit 125 (see figure 1) based upon said mobile unit geographic location. Therefore, contrary to Appellant's argument, Dowling teaches Appellant's "server data processing system".

The Appellant argues in page 23 of the Brief with respect to claims 8, 14 and 20 that the Examiner merely asserts that the missing claimed feature of claim 8 is old and well known and this erroneous, as it does not take into account the KSR requirement and even if well known, what is well known today was not necessarily well known at the time the application was filed. The Appellant further argues that for example, the

effective filing date of this application is September 30, 1999 and the Official Notice taken is incorrect because according to the Appellant, Internet-related art has been changing very rapidly due to its ubiquitous nature and relatively new technology. The Examiner answers to adequately traverse an Official Notice, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111(b). See also *Chevenard*, 139 F.2d at 713, 60 USPQ at 241 ("[I]n the absence of any demand by appellant for the examiner to produce authority for his statement, we will not consider this contention."). A general allegation that the effective filing date of the Application is September 30, 1999 and that the Internet-related art has been changing very rapidly due to its ubiquitous nature and relatively new technology or mentioning KSR without any reference to the examiner's assertion of official notice would be inadequate. Furthermore, the Appellant did not traverse the examiner's assertion of official notice in the Appellant's response to the previous Non-Final Rejection filed 03/12/2007 and only in this Appellant's brief is that the Appellant is arguing that the Official Notice is improper. Therefore, the Appellant has not provided adequate information or argument so that *on its face* it creates a reasonable doubt regarding the circumstances justifying the Official Notice and therefore, the Examiner's taking of Official Notice has been maintained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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February 24, 2008

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